

## REMARKS

Claims 14, 15 and 17-33 are pending in the application. Claims 15, 18, and 21-30 have been withdrawn from consideration by the Examiner as being drawn to a non-elected invention. Claims 13 and 16 have been cancelled.

With respect to the Examiner's earlier indication that claim 18 had been withdrawn for being directed towards a non-elected invention, upon reviewing the determination, Applicants believe it is in error. More specifically, in the Office Action dated April 23, 2002 (Paper No. 1), the Examiner made a restriction requirement requiring an election between inventions of Group I (claims 1-12) and Group II (claims 13-30), and if the Group II claims were elected, an election between Group A (claims 13-28) and Group B (claims 29 and 30) and an election of species grouped by the Examiner as:

Figs. 1-3 and 10-13

Figs. 4, 5 and 10-13

Figs. 6-8 and 10-13

Fig. 9-13.

In response to this requirement, Applicants, with traverse, elected the claims of Group II (claims 13-30), the claims of subgroup A (claims 13-28) and the species of Figs. 1-3 and 10-13. Applicants then went on to specifically state that claim 18 read on the embodiments illustrated in both Figs. 10 and 11 which show the elected species. Accordingly, claim 18 reads on the elected invention and species and should not have

been withdrawn from examination. In view of this, Applicants respectfully request that claim 18 be examined as proper.

In this regard, claim 18 has been amended to independent form to include all the limitations of previously amended claim 13. Claim 18 characterizes the plate fins as being curved at locations between the slots in the plate fins. Applicants respectfully submit that this structure is neither shown nor suggested by the cited references.

Applicants respectfully traverse the rejection of claim 17 based on Yasuhiko Japanese Patent No. 05099581. Claim 17 characterizes the slots in the plate fins as having flange free edges brazed to the tube runs. Contrary to the assertion in the rejection, Yasuhiko fails to disclose this structure. Indeed, the English language abstract specifically describes and focuses on the slots in Yasuhiko's plate-like fins (3) having flanges (9). The fact that these flanges (9) are not numbered in Fig. 7 of Yasuhiko cannot fairly be interpreted as a disclosure of slots having flange free edges, particularly when the flanges (9) are numbered in the figures of the reference where the flanges (9) are more appropriately and clearly illustrated. Indeed, the purpose of Fig. 7 in Yasuhiko rather clearly appears to be to describe the details of the tubes (2) and the louvers (12) of the disclosed heat exchanger, rather than to describe the flanges (9), which are more clearly illustrated in the other figures of Yasuhiko. Accordingly, in view of the foregoing, Yasuhiko fails to disclose the structure recited in claim 17 and the rejection should be withdrawn.

Claim 20 has been amended to independent form to include all of the limitations of base claim 19 and the previously amended version of claim 13. Because there has been no stated rejection of claim 20 and claim 20 has not been withdrawn or cancelled, Applicants believe claim 20 is in condition for allowance.

Claims 14, 15 and 19 have been amended to depend from claim 17, rather than claim 13, and are submitted to be allowable for the same reasons discussed in connection with claim 17. With respect to claim 15, which has been withdrawn, Applicants note that claim 17 is generic to all of the alleged species of the invention, including that of claim 15 which reads on the embodiment illustrated in Fig. 9. Accordingly, Applicants respectfully submit that claim 15 should now be considered in view of the belief that claim 17 is in allowable form.

Claims 21-26 depend from claim 18, which is believed to be allowable, and which is generic to the elected species as well as the alleged species of Figs. 4 and 5 which are read on by claims 21-26. Accordingly, in view of the apparent allowability of claim 18, an action on the merits for claims 21-26 should be in order.

Claim 27 has been amended to depend from claim 17, rather than claim 13. Because claim 17 is generic to all the alleged species of the invention, including the species of Figs. 6 and 8 which are read on by claims 27 and 28, an action on the merits for claims 27 and 28 should be in order.

Claim 31 has been amended to characterize the slots as having flange free edges brazed to the tube runs. For the reasons discussed above in connection

with claim 17, claim 31 is believed to be allowable and the rejection thereof is respectfully traversed in view of the amendment. Accordingly, claim 31 and its dependent claims 32-33 are believed to be allowable.


Claim 34 depending from claim 17 has been added and further characterizes the fins as being curved at locations between the slots. A curved structure is neither shown nor suggested by the cited references. Accordingly, for this additional reason, claim 34 is believed to be allowable.

In view of the foregoing, Applicants respectfully request reconsideration of the rejection of claims 14, 17, 19 and 31-33, consideration of claims 18 and 21-27, consideration of added claim 34, and allowance of the case.

Respectfully submitted,

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